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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

KELVIN D. DANIEL, et al

Plaintiffs,

vs.

SWIFT TRANSPORTATION CO. OF
ARIZONA, LLC.

Defendant

Case No.: 2:11-CV-01548-ROS

**PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Assigned to: Hon. Roslyn O. Silver

1 Pursuant to Fed. R. Civ. P. 23, Plaintiffs, Kelvin Daniel and Tanna Hodges
2 (“Named Plaintiffs”), on behalf of themselves and all others similarly situated,
3 bring this action on behalf of the Class initially defined below:
4

5 Consumers residing in the United States who applied
6 for a Department of Transportation regulated position
7 with Swift Transportation Co. of Arizona, LLC
8 (“Swift”) via facsimile, an internet website, electronic
9 mail, regular mail, or through a third party on or
10 between the dates of August 8, 2006 and July 21,
11 2011, and during the application process, Swift
12 procured a consumer report, which report was obtained
13 by Swift before there had been at least one in-person
14 interaction with the consumer.

15 Hodges also brings this action on behalf of the following subclass, of which
16 she is a member:
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18 Consumers residing in the United States who applied
19 for a Department of Transportation regulated position
20 with Swift via facsimile, an internet website, electronic
21 mail, regular mail, or through a third party on or
22 between the dates of August 8, 2006 and July 21,
23 2011, and against whom Swift took adverse action
24 based in whole or in part on its use of a consumer
25 report without providing to the consumer within 3
26 business days of taking the adverse action, verbal,
27 electronic or written notice that: (1) the adverse action
28 was taken based in whole or in part on the consumer
report, (2) the name, address, and telephone number of
the consumer reporting agency, (3) that the consumer
reporting agency did not make the decision to take
adverse action and would be unable to provide the
consumer with specific reasons why the adverse action
was taken, (4) that the consumer could request a free
copy of the report and (5) that the consumer can
dispute the accuracy or completeness of the report, as
required by 15 U.S.C. § 1681b(b)(3)(B).

1 Named Plaintiffs respectfully request that this Court enter an Order
2 certifying the Class and Subclass as defined above, deeming Named Plaintiffs
3 adequate representatives of the Class and Subclasses, and appointing Matthew A.
4 Dooley, Anthony R. Pecora and Dennis M. O'Toole of Stumphauzer, O'Toole,
5 McLaughlin, McGlamery & Loughman Co., LPA and Leonard A. Bennett and
6 Susan Rotkis of Consumer Litigation Associates, P.C. as Class Counsel. A
7 memorandum in support is attached hereto and incorporated herein.
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10
11 Respectfully Submitted,

12 STUMPHAUZER O'TOOLE MCLAUGHLIN
13 McGLAMERY & LOUGHMAN CO LPA

14 /s/ Dennis M. O'Toole
15 /s/ Matthew A. Dooley
16 /s/ Anthony R. Pecora

17 LUBIN AND ENOCH, P.C.

18 /s/ Stanley Lubin

19 LITIGATION ASSOCIATES, P.C.

20 /s/ Leonard A. Bennett

21 *Counsel for Plaintiffs*
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CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing Plaintiffs' Motion for Class Certification was filed electronically this 1st day of October, 2012. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Matthew A. Dooley
Counsel for Plaintiffs